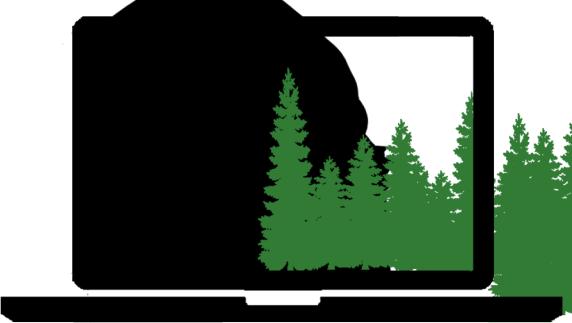


The Interim



Newsletter

A Monthly Publication

May 2016

In This Issue

Appointment of Legislative Auditor	1
Children, Families, Health, and Human Services Committee	2
Commission on Sentencing	3
Economic Affairs Committee	5
Energy and Telecommunications Committee	6
Environmental Quality Council	6
Judicial Redistricting Commission	7
Law and Justice Committee	7
Legislative Audit Committee	9
Legislative Council	10
Revenue and Transportation Committee	10
School Funding Commission	11
State Administration and Veterans' Affairs Committee	12
State-Tribal Relations Committee	13
Task Force on State Public Defender Operations	14
Water Policy Committee	15
The Back Page: A Closer Look at the 4 Percent Retirement Solution	16

Process in Place for Appointing a New Montana Legislative Auditor

A four-member subcommittee of the Legislative Audit Committee is in the process of appointing a new state legislative auditor, in accordance with state law. The current legislative auditor, Tori Hunthausen, has announced her plans to retire at the end of her appointment term, June 30, 2016, after 28.5 years in the Legislative Audit Division.

Rep. Randy Brodehl (R-Kalispell), presiding officer of the Legislative Audit Committee, has appointed a hiring subcommittee made up of himself and three other members of the audit committee: Sen. Mary McNally (D-Billings), Rep. Mitch Tropila (D-Great Falls), and Sen. Dee Brown (R-Hungry Horse).

The subcommittee was formed to recruit a candidate for the position of legislative auditor. The candidate will be presented to the full Legislative Audit Committee as a nominee for appointment at the committee's June 16-17 meeting. The subcommittee advertised within the Legislative Audit Division and required that a cover letter and resume be submitted to the legislative branch's human resource officer.

The legislative auditor's powers and duties are described in Montana law, section 5-13-301, Montana Code Annotated, and are further driven by government auditing standards published by the U.S. Government Accountability Office. The legislative auditor oversees the operations and directs the independent, nonpartisan audits of state agencies, including the Montana University System.

Tori Hunthausen began working with the Legislative Audit Division in 1988 and was appointed to lead the division in 2008, as the 12th female legislative auditor in the country at the time. She is the fourth person to serve as Montana's legislative auditor since the office was created in 1967.

I have enjoyed working for LAD tremendously, and it is with part joy, and part sadness, that I announce my retirement. The joy is for the expectation of things to come as I continue in life's journey; the sadness is in leaving such an exceptional workplace and the inspiring and dedicated people who work for LAD.

This position has taught me the value of managing from a mentor's perspective; a lesson that has served me well both professionally and personally. I express my genuine and sincere gratitude for this opportunity. —Tori Hunthausen

CFHHS to Consider Dementia Bills, Mental Health Systems

The Children, Families, Health, and Human Services Interim Committee will continue work on two mental health studies and review six preliminary bill drafts for its study of guardianship and Alzheimer's disease when it meets on May 9.

Committee members will also review a bill to eliminate several advisory councils and required reports for the Department of Public Health and Human Services.

SJR 22: Guardianship/Alzheimer's Disease

In March, the committee asked staff to draft bills to revise guardianship laws and to put into effect recommendations from the Montana Alzheimer's/Dementia Work Group. The committee will review and take public comment in May on bills to do the following:

- Adopt a model bill on financial exploitation of vulnerable people.
- Establish an interdisciplinary working group on guardianship.
- Create a state facilitator for Alzheimer's disease and related dementias.
- Create more community-based placement options for people with dementia.
- Fund respite care services.
- Provide funding to state area agencies on aging to pay for services for people who aren't eligible for Medicaid.

The committee will also discuss whether to proceed with drafting a bill on guardianship standards of practice.

HB 422: Children's Mental Health Outcomes

The committee will focus on information technology questions as members continue the House Bill 422 (2015) study of children's mental health outcomes. HB 422 requires that the committee propose a pilot project for improving and tracking outcomes for children in the mental health system.

In March, providers outlined various items that could be monitored to see whether children are at home, in school, and out of trouble within a year after discharge from certain services. However, Zoe Barnard of the DPHHS Children's Mental Health Bureau said the bureau doesn't have a database for tracking those items.

Committee members will hear more about existing state databases and whether they could be adapted for use by the Children's Mental Health Bureau.

SB 418: Legislative Mental Health Investments

As part of the continued monitoring of expanded mental health services funded in 2015, the committee will hear more detail on budget issues facing community mental health centers. Community providers and county officials told the committee in March that despite the new state funding, the centers still struggle to maintain a full array of mental health services. Some have even been operating in the red.

The committee will take a closer look at funding sources for crisis services in the mental health centers. Members will also hear more about the use of agreements that allow pharmacists to manage and change prescriptions for people under a doctor's care. Pharmacists say that this service could ease some of the strains caused by the lack of mental health providers. However, they say that payment barriers prevent wider use of those agreements.

Eliminating Inactive Advisory Councils

The committee will also consider a bill draft to eliminate four advisory councils that have not been active in recent years and five reports that are no longer published. The bill would eliminate the Child Support Enforcement Advisory Board, Commission on Provider Rates and Services, Community Health Centers Advisory Group, and the Montana 2-1-1 Community Coalition.

The bill would also eliminate reports on community health center grants, statewide 2-1-1 calling system activity, the effectiveness of Medicaid managed care standards, the Big Sky Rx prescription drug discount program, and mental health services for children with serious emotional disturbance.

The bill draft stems from House Bill 142 in 2011, which required interim committees to review the advisory councils and reports required by law for the agencies they monitor. The committee will take public comment on the bill draft before deciding whether to introduce it in the 2017 legislative session.

Next Meeting

The committee will meet at 8 a.m. on May 9 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, please visit the committee's website or contact Sue O'Connell, committee staff.

Committee Website: www.leg.mt.gov/cfhhs

Committee Staff: soconnell@mt.gov or 406-444-3597

Commission on Sentencing Examines Utah, Tribal Justice, and Montana Data

The Commission on Sentencing reconvened in early March to continue its in-depth review of the workings of the state's criminal justice system.

Utah Justice Reinvestment Efforts

Before diving into Montana-specific inquiries, the commissioners listened to Eric Hutchings, a Utah state representative who participated in his state's justice reinvestment effort. Rep. Hutchings, a Republican, described his experience, including shepherding legislation through Utah's legislature and monitoring implementation efforts.

Rep. Hutchings explained how the data-driven process helped build support for changes to the state's justice system, especially because the data was specific to Utah. After his presentation, Rep. Hutchings answered questions from the Montana commissioners, who focused on the state's budget, the challenges Utah faced with the rural-urban differences of that state, how Utah's counties were affected, the nature of Utah's corrections population, and the state's parole process.

Criminal Justice on Montana's Indian Reservations

Turning their attention to a very Montana-specific topic, the commissioners heard from two fellow commissioners who discussed the structure and operation of criminal justice systems on Montana Indian reservations. Commissioner Majel Russell launched the discussion with an overview of Montana's tribes and reservations as well as the nature of tribal, state, and federal jurisdiction in criminal justice matters. She then reviewed the challenges posed when offenders under probation or parole supervision wish to live on a reservation during the period of supervision, and she offered options the commissioners could consider to ease the postrelease transition of offenders into tribal areas.

Calvin Jilot, a member of the Chippewa Cree Tribe and of the Chippewa Cree Business Committee of the Rocky Boy's Reservation, talked about the tribe and the structure of its law enforcement system, including a new Bureau of Indian Affairs detention facility that is close to completion.

Commissioner LeAnn Montes, who is attorney general for the Chippewa Cree Tribe, described the tribe's judicial branch. The tribe has a lower court, an appellate court, and a traditional court that doesn't take criminal cases but instead works to resolve civil cases, such as probate. She also noted that the tribe is working to reopen a drug court that had been discontinued due to lack of funding.

Commissioner Montes described the challenges facing the judicial branch and tribe, including that many crimes committed on the reservation are drug or alcohol related. When those crimes have involved members of tribes located on other reservations, the Chippewa Cree Tribe has entered into memorandums of understanding with the other tribes to ensure that those tribes' offenders receive treatment regardless of tribal affiliation. She also highlighted the work of the White Sky Hope treatment center, which is located on the Rocky Boy's Reservation, and reviewed efforts that the tribe is making to expand treatment options for tribal members.

Rounding out the panel, the Chippewa Cree Tribe's chief of police, Allen Primeau, noted that his main goal is to reduce recidivism and help individuals. He discussed the structure of his department and jails and noted that few jail stays on the reservation were long term, with the average length of stay being about 15 days. Primeau also described the programs he is working to implement or expand, including data collection capabilities to better understand how to direct resources and services effectively and to possibly end the revolving door of local people flowing through the jail.

Council of State Governments Justice Center Reports

The commissioners spent the rest of the meeting listening to presentations by staff from the Council of State Governments (CSG) Justice Center. The reports covered the staff's initial data analysis, observations from site visits and discussions with Montana stakeholders, and comparisons of Montana's criminal justice system components to those in other states. During these presentations, commissioners asked questions, offered statements, and requested more discussion to clarify certain points. They also heard from various stakeholders during public comment times.

The CSG staff described their activities since the commission's previous meeting in November 2015. Those activities include gathering and analyzing data about Montana's criminal justice system and interacting with stakeholders by making site visits, phone calls, and presentations at association meetings and by conducting focus groups and surveys. The stakeholders include behavioral health experts and providers, law enforcement agencies and associations, county attorneys, organizations providing victims' services, probation and parole officers, parole board members and staff, various community corrections facilities and staff, and residents of facilities and participants in programs.

The presentation topics ranged from crime and arrest trends to court and jail pressures and from Department of Corrections population trends to assessment of programs used by DOC or community corrections organizations.

Key findings from the detailed presentations were highlighted as shown in figures 1, 2, and 3.

CSG staff concluded their presentations by reviewing a “system checklist” with the commissioners. The checklist covered eight best practices proven to help reduce recidivism and included a review of Montana’s current practice and the

steps that could be taken by policymakers and stakeholders to improve practices in the future. The system checklist and other detailed information presented during the meeting are available online at the commission’s web page for the March meeting (at www.leg.mt.gov/cos, choose “Meetings and Materials” and then choose “March 1-2, 2016”).

Figure 1: Crime and Arrest Findings

District Court case filings increased 20% between FY 2009 to FY2015.	Time from case filing to disposition increased 18% between FY2012 and FY2015. Between FY2012 and FY2015, time from case filing to disposition increased from 181 days to 213 days.	Time from plea to disposition increased 60% between FY2012 and FY2015. Between FY2012 and FY2015, time from plea to disposition increased from 77 days to 123 days.	Montana’s jail incarceration rate increased 67% between 2011 and 2013. Montana’s jail incarceration rate grew significantly faster than other states in the region and at 360 is the highest in the region.
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Figure 2: Court and Jail Pressures

District Court case filings increased 20% between FY 2009 to FY2015.	Time from case filing to disposition increased 18% between FY2012 and FY2015. Between FY2012 and FY2015, time from case filing to disposition increased from 181 days to 213 days.	Time from plea to disposition increased 60% between FY2012 and FY2015. Between FY2012 and FY2015, time from plea to disposition increased from 77 days to 123 days.	Montana’s jail incarceration rate increased 67% between 2011 and 2013. Montana’s jail incarceration rate grew significantly faster than other states in the region and at 360 is the highest in the region.
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Figure 3: Department of Corrections Population Trends and Program Assessments

Community Supervision averages 68% Of the DOC population Prison is 20% and the Alternatives 12% of the daily population.	Violent offenders are 41% Of the prison population Probation has an average time on supervision of just under 3 years, with sexual offenders, property offenders, and DUI offenders on supervision the longest.	Probation placements are ~62% Of initial placements for original sentences Prison placements are 8%, but have grown 42% between FY2012 and FY2015. Probation placements have the highest rate of high/very high risk offenders (44%).	Of those originally placed to an alternative placement, 26% Went to prison in the next 3 years 199 people with an original sentence in FY2012 had 5 or more subsequent system admissions by the end of FY2015.
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After discussing next steps, including the process to draft any legislation the commission requests for the 2017 legislative session, the commissioners each highlighted several issues or areas they would like to focus on at future meetings. They also agreed to meet again in late spring or early summer.

Next Meeting

The commission will meet on June 22-23 at the Capitol in Helena at a time to be determined. For more information on the commission's activities and upcoming meeting, please visit the commission's website or contact Rachel Weiss, commission staff.

Commission Website: www.leg.mt.gov/cos

Commission Staff: rweiss@mt.gov or 406-444-5367

Anti-competition Concerns in Licensing Aired at Economic Affairs Committee Meeting

After hearing at its April meeting about a U.S. Supreme Court decision that highlighted antitrust risks for industry-dominated licensing boards, the Economic Affairs Interim Committee asked for a bill draft that would give to the Department of Labor and Industry supervision authority over certain actions by licensing boards.

At the meeting, Lisa Kopchik, an attorney with the Federal Trade Commission in Washington D.C., reviewed the 2015 Supreme Court decision in *North Carolina Dental Board of Examiners v. Federal Trade Commission*. In summarizing guidelines drafted by FTC staff to help licensing boards avoid antitrust problems, Kopchik noted that city and state employees can rely on what is called a state action defense in antitrust complaints if a state policy is clear about anticompetitive exemptions. However, she noted that state policy alone generally is insufficient to avoid antitrust concerns, unless a private party, such as a licensing board composed mainly of industry representatives, is also subject to active supervision by a representative of the state.

Judy Bovington, chief counsel with the Department of Labor and Industry, told the committee that department attorneys currently advise licensing boards in cases considered questionable for antitrust but that boards can still act in whatever way they want. The commissioner of labor and industry has written a memo advising board members that ignoring staff recommendations may subject them to direct liability if an antitrust action is brought.

The bill draft requested by the committee is intended to provide some supervisory authority over licensing boards in cases the department may consider anticompetitive.

Other presentations related to the committee's Senate Bill 390 (2015) study of licensing board financing included information from the following:

- A Washington State regulator, who discussed how that state uses a split-level approach in which some licensing boards are mostly advisory whereas other licensing boards have more regulatory activity.
- Montana's chief licensing board administrator, who, with an attorney from the Legislative Services Division, discussed approaches and concerns about different funding mechanisms for boards.

Other committee activity included the following:

- The committee asked that a letter be sent to the Montana State Fund Board of Directors recommending that the board not approve a proposed \$7.7 million purchase from the City of Helena of a parking garage adjacent to the Montana State Fund building in Helena.
- In response to presentations by representatives of Nemont and Mid-Rivers Communications, committee members requested additional information on money being accumulated in various 9-1-1 accounts. Mike Kilgore of Nemont Telephone Cooperative and Mike Candelaria of Mid-Rivers Communications reviewed the broad scope of services and technologies provided by their companies in vast, lightly populated areas of eastern and central Montana. They noted decreases in federal funding and difficulties in accessing the state 9-1-1 funds. The committee learned that the Energy and Telecommunications Interim Committee is likely to consider a bill regarding the 9-1-1 funds.
- The committee heard from the Department of Livestock and from Board of Livestock members regarding upcoming budget discussions and the status of current budgets. Legislative Fiscal Analyst Amy Carlson also reviewed approaches to the department's budget for the next biennium in light of one-time-only funding for many programs in the current budget.
- The committee heard an update on an air ambulance working group being coordinated by the State Auditor's Office. The next meeting of that working group is set for May 25 at the Capitol in Helena.

Next Meeting

The committee will meet at 8:30 a.m. on June 22 in Room 137 of the Capitol in Helena. For more information about the committee's activities and upcoming meeting, please visit the committee's website or contact Pat Murdo, committee staff.

Committee Website: www.leg.mt.gov/eaic

Committee Staff: pmurdo@mt.gov or 406-444-3594

ETIC Heading to Kalispell for May Meeting

While in the Flathead for a meeting on May 12-13, the Energy and Telecommunications Interim Committee will visit a biomass co-generation facility in Columbia Falls, check out Hungry Horse Dam, and learn more about a community solar project.

The ETIC meets May 12-13 at the Flathead Electric Cooperative in Kalispell. The meeting begins at 9 a.m. on May 12 and will be held in the community room.

Biomass Facility

In October 2013, F.H. Stoltze Land and Lumber Co. unveiled its \$22 million biomass-fueled co-generator. The committee will visit the Columbia Falls facility and see firsthand how the co-generator produces steam to run Stoltze's operations. The generator also provides electricity that is sold at wholesale rates; Stoltze and Flathead Electric Cooperative have a 20-year agreement for the power.

Hungry Horse Dam

The committee also will visit the generating units in the power plant at Hungry Horse Dam. The Bureau of Reclamation is examining options for upgrading the units, which have been in service since the dam opened in 1953.

Gas-to-Energy Landfill Plant

On Friday, May 13, committee members will visit Flathead Electric's landfill gas-to-energy plant — the first of its kind in Montana. Landfill gas is produced by the natural degradation of municipal solid wastes. The gas is collected and used to produce electricity. There is little difference between an electric generating plant using landfill gas and one using natural gas or diesel fuel.

Solar Energy Project

The committee will finish up its energy tours with a visit to Flathead Electric's Solar Utility Network, or SUN, project. It is the first community solar project in Montana. The cooperative is building the solar array and allowing its members to purchase panels. Each month participants receive a credit on their bills for the amount of electricity generated at their panel. As the committee works through its study of net metering, as outlined in Senate Joint Resolution 12 (2015), questions about the use of community solar across Montana have been brought up by renewable energy organizations and utilities.

Next-Generation 9-1-1

While in the Flathead, the ETIC also will continue with its work on House Joint Resolution 7 (2015), a review of next-generation 9-1-1. The committee will review a draft report

on the subject and discuss three pieces of proposed legislation aimed at updating Montana's 9-1-1 laws and incorporating NG911 to enhance public safety in Montana.

Next Meeting

The committee will meet at 9 a.m. on May 12 and at 8 a.m. on May 13 in the community room of the Flathead Electric Cooperative at 2510 U.S. Highway 2 East in Kalispell. For more information on the committee's activities and upcoming meeting, please visit the committee's website or contact Sonja Nowakowski, committee staff.

Committee Website: www.leg.mt/etic

Committee Staff: snowakowski@mt.gov or 406-444-3078

Variety of Wildlife Issues on EQC Agenda

Bears and bison and parks and pine beetles are but a few of the topics on the May meeting agenda for the Environmental Quality Council.

Wildlife Management

The council will debate whether to weigh in on a federal proposal to remove grizzly bears in the Greater Yellowstone area from the list of threatened and endangered species. Other wildlife issues on the agenda include updates on bison management around Yellowstone National Park, a discussion of the 2015 Gray Wolf Conservation and Management Report, and an update on the Sage Grouse Habitat Conservation Program.

Department of Fish, Wildlife, and Parks

The Department of Fish, Wildlife, and Parks will report on park fees and revenues. The agency will also brief the council on an emerging land management issue. Some property managed by the Parks Division was purchased using money from hunting and fishing license dollars. If the property is no longer used for fish and wildlife purposes, the agency is required to replace that property with land of equal value that will be used for those purposes. A portion of West Shore State Park on Flathead Lake is one of these properties.

Department of Natural Resources and Conservation

The Department of Natural Resources and Conservation will provide a report on forest health, a forecast on the upcoming fire season, and an update on a forestry program aimed at management activities on federal, state, private, and tribal lands.

Public Land Access and Big Game Management

The council continues its work on a study of federal roads, inaccessible public lands, and big game. A draft report, along with possible findings and recommendations, is up for debate. Updates on elk shoulder seasons, game damage hunts, and the Block Management Program are also scheduled.

Program Evaluation

The council will finish its evaluation of Wildlife Division programs at the FWP with a review of general wildlife management activities, including species surveys and inventories, season setting, and research. Interested persons are welcome to attend and provide comment.

Next Meeting

The council will meet on May 4-5 in Room 317 of the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, please visit the council's website or contact Joe Kolman, council staff.

Council Website: www.leg.mt.gov/eqc

Council Staff: jkolman@mt.gov or 406-444-3747

Judicial Redistricting Commission Decides Against Recommending Changes

At its April 6 meeting in Helena, the Judicial Redistricting Commission decided against recommending any changes to the state's judicial districts to the 2017 Legislature and agreed to meet again before the fall to consider draft language for a final report.

Before considering several proposals to alter the state's judicial districts, the commissioners learned more about the various state-borne costs related to judges and standing masters, as well as the roles played by the state's current standing masters. The commissioners also listened to the judicial branch's current budget recommendations and anticipated costs related to adding several new judges, support staff, and a standing master. The recommendations will be presented by the judicial branch to the 2017 Legislature for its consideration, but the budget information update was provided to the commissioners at their request.

The commissioners also considered six redistricting proposals suggested by individual commissioners, taking public comment from and engaging in discussion with several district court judges on the effects the proposals could have on the judges' caseloads and travel times as well as on the people living in the affected counties.

After public comment and discussion among the commissioners, the commission voted against proposing any of the six redistricting proposals to the 2017 Legislature. The commission did not make other recommendations to the Legislature. Commissioners agreed to meet again before the fall to review draft language for a final report to the 2017 Legislature, including the recommendation that the Legislature not consider any of the six proposals that the commission reviewed.

Next Meeting

The commission will meet in the late spring or summer of 2016 at the Capitol in Helena at a time to be determined. For more information on the commission's activities and upcoming meeting, please visit the commission's website or contact Rachel Weiss, commission staff.

Commission Website: www.leg.mt.gov/jrc

Commission Staff: rweiss@mt.gov or 406-444-5367

Law and Justice Interim Committee Covers Range of Topics at March Meeting

The Law and Justice Interim Committee covered a wide range of topics at its March meeting in Helena. During its first morning of work, the committee heard updates from the judicial branch and three agencies for which the committee has oversight duties.

Judicial Branch Update

Court Administrator Beth McLaughlin reported on the status of the judicial branch's IT system, as is required by statute, and also provided an update on the youth court system. McLaughlin also updated committee members on a child abuse court diversion pilot project. She described the genesis of the program under House Bill 612 (2015) and outlined the program's funding, structure, and eligibility requirements. McLaughlin noted that one case had been successfully mediated at the time of her update. She also listed next steps and options for the pilot project and stated that the program's effectiveness would be reevaluated in June.

Department of Justice Update

Department of Justice staff reviewed several recent changes in the department, with Deputy Chief of Staff Mike Milburn covering the crime lab's Billings expansion and the history and current status of a reorganization of the medical examiner's office.

Deputy Attorney General Jon Bennion then spoke about the work of a task force organized by the attorney general to examine how many sexual assault evidence kits have not been submitted to the state crime lab for testing and the reasons

the kits remain unsubmitted. The task force continues to meet to review initial survey findings and to develop a plan to address any issues it finds with the current processes used by local law enforcement agencies. At the end of the meeting, the committee voted to send a letter of support for the task force's application for grant funding to continue its work.

Deb Matteucci, executive director of the Board of Crime Control, presented an update required by statute on the board's restorative justice grant program. She also discussed the board's six-month strategic planning efforts related to criminal justice system needs. The planning efforts resulted in the board's focus on two goals: (1) looking at the impacts of drug use on Montana communities and (2) addressing the need for additional drug use prevention and intervention measures.

Department of Corrections Update

Rounding out the agency updates was an update by Director Mike Batista of the Department of Corrections. Batista highlighted several topics the department has focused on recently, including the following:

- Activities of the Commission on Sentencing.
- Offender population management.
- Pilot projects for youth offenders.
- A collaboration in the Billings area to provide mental health services to offenders using videoconferencing technology.
- The increasing number of victim impact panels offered around the state.
- A redesign of the boot camp program.
- The work of a reentry task force staffed by the department.

The committee also received an update from Government Relations Director Adrianne Slaughter on the department's efforts to meet the requirements of the federal Prison Rape Elimination Act, or PREA.

SJR 24: Study of Sexual Assault in Montana

During the afternoon of the first day, the committee turned its attention to the ongoing Senate Joint Resolution 24 (2015) study of sexual assault in Montana. Committee members spent the afternoon learning about various programs that aim to prevent sexual assaults and to educate students on sexual assault and related topics. Staff from Domestic and Sexual Violence Services, which is based in Red Lodge, demonstrated some techniques the program uses to teach educators how to help their students identify and develop healthy

peer and dating relationships, including how to introduce the concept of consent to middle school-age children.

Dan Murphy, a law enforcement officer for Butte-Silver Bow, described his work with high school students and the program he has developed over many years to educate and influence students on sexual and domestic violence before they reach college or have interactions with the criminal justice system.

Finally, Laura Sankey, legislative staff attorney, and Karin Olsen Billings, administrator of the Office of Public Instruction's Health Enhancement and Safety Division, described the negotiated rulemaking process as well as OPI's rulemaking committee efforts to revise the health enhancement standards that will be used by local schools to help guide local curriculum related to various health issues that affect K-12 students.

The second morning of the meeting focused on several bill drafts sparked by a committee-directed staff review of the state statutes governing sexual assault crimes. Committee attorney Julianne Burkhardt discussed the review process.

Next, several panelists spoke about their views on some possible statutory changes the committee could consider recommending to the next Legislature. The panelists ranged from a Missoula deputy county attorney who specializes in prosecuting sex crimes to a public defender to a victim's advocate who also works on civil cases filed by victims of sexual assault crimes. The draft language considered by the committee and panelists included a revision of the definition of the term "consent," the creation of an aggravated sexual assault crime, and language that would criminalize the act known as "revenge porn."

After listening to the discussion, asking numerous questions, and hearing comments from the public on the SJR 24 study, the committee requested several revisions to the existing bill drafts and presented ideas for several more drafts for the committee to consider at future meetings.

Other Topics

The committee also discussed several topics posed by individual members for future committee agendas, including the following:

- A possible committee bill to allow local governments to adopt an ordinance prohibiting public intoxication.
- A look at attorney fees and costs and when the law allows a judge to award them.
- Consideration of a conviction integrity unit or an innocence commission as an addition to an update the committee is already scheduled to receive on eyewitness identification policies in place in Montana's law enforcement agencies and training received by officers.

- A comparison of programs available for offenders at the Montana State Prison in Deer Lodge and the Crossroads Correctional Facility in Shelby.
- An overview of the DNA database laws in Montana and how the database works.
- Further discussion about the sex offender registry laws in Montana.

These topics will be addressed at future committee meetings as time and speaker availability allow. The committee also asked staff to arrange for members an optional tour of the Montana State Prison to coincide with the committee's April meeting date. A review of the April committee meeting will be available in a future edition of *The Interim*.

Next Meeting

The committee will meet on June 28-29 at the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, please visit the committee's website or contact Rachel Weiss, committee staff.

Committee Website: www.leg.mt.gov/ljic

Committee Staff: rweiss@mt.gov or 406-444-5367

Audit Committee to Review Recent Audits

The Legislative Audit Committee will meet in June to review recent audits of state programs and services. The Legislative Audit Division anticipates reporting on the following audits and topics.

Financial Compliance Audits

Financial compliance audits, which encompass the traditional Certified Public Accountant financial audit as well as compliance, will be presented on the following agencies:

- Department of Agriculture
- Department of Livestock
- Montana Arts Council
- Montana Single Audit Report
- Montana State Library
- Financial Audits

Financial audits will be presented on the following programs and agencies:

- Montana Water Pollution Control and Drinking Water
- State Revolving Fund Programs
- State of Montana

Performance Audits

Performance audits — reviews and analyses of state programs undertaken to determine whether the programs are achieving the intended results, being conducted efficiently and economically, and operating in compliance with related laws and regulations — will be presented on the following programs:

- Montana Veterinarian Diagnostic Lab
- Office of Public Instruction Data Collection
- Contractor Licensing

Contract Audits

Audits by contracted entities will be presented on the following colleges:

- Dawson Community College
- Flathead Community College
- Miles Community College

Follow-Up Reports

The committee will also receive follow-up reports on audits of the following programs:

- Property Tax Relief
- Public Employee Retirement Information Systems Development Life Cycle

Offender Management

In addition to receiving presentations on the listed audits, the committee is scheduled to prioritize performance audit projects for the next fiscal year.

The Legislative Audit Division provides independent and objective evaluations of the stewardship, performance, and cost of government policies, programs, and operations. The division is responsible for conducting financial, performance, and information system audits of state agencies or their programs, including the Montana University System. To report suspected improper acts committed by state agencies, departments, or employees, call the division's fraud hotline at 800-222-4446 or in Helena at 444-4446.

For additional information, please visit the division's website or contact division staff.

Division Website: www.leg.mt.gov/audit

Division Phone Number: 406-444-3122

Legislative Council Plans for Session, Asks for Input on Legislative Rules

Session Planning: Save the Dates!

The Legislative Council has adopted dates related to preparation activities for the 2017 session. The activities and dates are as follows:

- Caucus – Nov. 16, 2016 (morning).
- Training and orientation – Nov. 16 (afternoon) through Nov. 18, 2016.
- Rules committees – Dec. 7, 2016 (morning).
- Presiding officer training – Dec. 7, 2016 (afternoon).
- Budget training, 2019 Biennium Budget review, and other topics – Dec. 8, 2016.

The council also considered a session calendar and asked for additional options for the next meeting. The first day of the 2017 legislative session is Monday, Jan. 2, and the House and Senate will convene at noon.

Call for Legislator Input on Rules: Please Comment

The Legislative Council Rules Subcommittee is seeking information from legislators on potential rules changes or areas of concern in the Joint Rules or the House or Senate Rules. The members of the subcommittee are Rep. Bryce Bennett (D-Missoula), subcommittee presiding officer; Rep. Stephanie Hess (R-Havre); Sen. Edward Buttrey (R-Great Falls); and Sen. Tom Facey (D-Missoula). The subcommittee will meet at 9:00 a.m. on May 18 in Room 102 of the Capitol in Helena. The 2015 legislative rules can be found online at <http://leg.mt.gov/css/sessions/64th/default.asp>.

Any legislator wishing to provide comments, questions, or ideas on rules changes should e-mail Todd Everts (teverts@mt.gov) or Susan Fox (sfox@mt.gov) or call 406-444-3064. Ideas are also welcome on training and other ways to assist legislators in understanding or using the legislative rules.

Next Meeting

The council will meet on May 18-19 in Room 102 of the Capitol in Helena. On Wednesday, May 18, the Rules Subcommittee will meet at 9:00 a.m. and the full council will convene at 1:00 p.m. The council will continue the meeting at 8:30 a.m. on May 19.

Anticipated agenda items for the council meeting include the following topics:

- Legislator pay and implementation of the Senate Bill 283 (2015) stipends.
- Continued discussion on oversight of agency administrative rules.

- TVMT proposals.
- Remote legislative meeting possibilities.
- Planning for the 2017 session, including legislative branch budget development.
- Revised proposed guidelines for legislator appointments.
- E-mail best practices for legislators.
- Legislative office space.
- Rules Subcommittee activities.

For more information on the council's activities and upcoming meeting, please visit the council's website or contact Susan Byorth Fox, council staff.

Council Website: <http://leg.mt.gov/legcouncil>
 Council Staff: sfox@mt.gov or 406-444-3066

Revenue-Estimating Subcommittee to Meet in May, RTIC in June

A subcommittee formed by the Revenue and Transportation Interim Committee to determine whether to recommend that the Legislature form a joint revenue-estimating subcommittee that would meet during legislative sessions will meet via conference call on May 3.

During this meeting, subcommittee members will discuss whether the full committee should make a recommendation for the joint revenue-estimating subcommittee and, if so, will consider details about how the subcommittee would be formed, such as who should appoint the subcommittee and what the composition of the subcommittee's membership should be. The agenda for the May 3 meeting is available on the committee's website.

The conference call meeting will start at 1 p.m. on May 3 and will originate from Room 137 of the Capitol in Helena. It will also be streamed live from www.leg.mt.gov. Anyone wishing to offer public comment may do so in person in Room 137 at the time of the meeting or may send comments by e-mail to memoore@mt.gov or by regular mail to Legislative Services Division, c/o Megan Moore, P.O. Box 201706, Helena, MT 59620-1706.

Next Meeting

The full Revenue and Transportation Interim Committee will meet on June 9-10 in Room 137 of the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, please visit the committee's website or contact Megan Moore, committee staff.

Committee Website: www.leg.mt.gov/rtic
 Committee Staff: memoore@mt.gov or 406-444-4496

School Funding Interim Commission Enters Home Stretch

The School Funding Interim Commission established under Senate Bill 128 (2015) met April 4-5 at the Capitol in Helena. In addition to continuing its deep dive into Montana K-12 funding, the committee determined its remaining meeting dates for the interim (one in May and one in June), setting up a meeting-a-month sprint for the finish.

The commission's work is commonly referred to as "the decennial study" because it fulfills a statutory requirement that Montana's K-12 school funding formula be reviewed at least every 10 years. The 16 commission members (12 legislators and four public members) are tasked with reassessing the needs and costs related to the basic system of free quality public elementary and secondary schools and recommending to the 65th Legislature any changes to the state's school funding formula deemed necessary.

Beginning with the first commission meeting in September 2015, several priority topics have since emerged, garnering much of the commission's attention: district structure and equity, facilities, employee recruitment and retention, and special education.

April Showers (of Information) Bring . . . More Information Requests for May!

The commission spent the first morning of its two-day April meeting examining different aspects of funding equity between school districts, starting with the role that nonlevy revenue plays in district general fund budgets. Although many people may focus on natural resource revenue, such as distributions of oil and natural gas production taxes, the commission learned that the largest portion of nonlevy revenues that flow to school districts come from the block grant reimbursements established in House Bill 124 (2001) — "The Big Bill" — and Senate Bill 96 (2013). Together these reimbursements account for nearly \$60 million annually.

The commission also examined the variations in levies and millage amounts for the several district-level funds that are funded through school district levies, including the over-BASE portion of the general fund and the transportation, bus depreciation, building reserve, and technology funds. Staff presented several options for equalizing the mills that school districts are required to fund in the BASE portion of their general fund budgets. These required mills range from zero in some school districts to nearly 80 in some K-12 districts.

The commission also reviewed tuition laws for students who attend a school district in which they do not reside.

The commission requested additional information on all of these topics for the May meeting.

School Facilities

The afternoon focus was funding for school facilities. Staff provided analysis of facility expenditures based on district size characteristics as well as funding sources. Bridget Ekstrom of D.A. Davidson & Co. presented information on passage and failure rates of bond elections for funding infrastructure projects.

The commission also reviewed the INTERCAP loan program administered by the Board of Investments, which provides low-interest loans for smaller-scale district facility projects. Staff presented several options for providing state support for school facilities as well as possible revenue streams.

For its May meeting, the commission requested that staff provide a framework and policy decision points for a new school facility grant program and cost estimates for fully funding the facility reimbursement program (also known as debt service GTB). The commission will also consider changes to the INTERCAP program and increasing district flexibility in transferring ending fund balance from district general funds to the building reserve fund.

Employee Recruitment and Retention

Day two began with a work session on employee recruitment and retention. A number of states are addressing concerns related to teacher shortages, and the commission has heard testimony about the lack of applicants for school job openings, especially in Montana's rural areas, not just for teaching positions but also for school support staff and bus drivers. Several panelists from the education community shared their cooperative efforts to address these concerns though a project called RISE4MT (Recruiting Incredible School Educators).

The commission also continued examining the classification systems that measure school rurality, and committee presiding officer Tom Facey (D-Missoula) directed Sen. Kristin Hansen (R-Havre) to lead an informal work group to look at this issue in greater depth.

The increasing costs of employee health benefits is another factor affecting districts' ability to attract and retain employees. The commission discussed with stakeholders previous legislative efforts to create a statewide K-12 employee health plan. Several commissioners who sponsored these bills shared their perspectives. The commission decided not to explore this topic further after acknowledging the uncertainty of the upcoming presidential election and potential changes at the federal level.

Programs for the Gifted and Talented

The final afternoon was spent on special education and gifted and talented programs. State Superintendent Denise Juneau has convened a task force to examine the funding of special education cooperatives, and members of that task force presented information to the commission.

The commission also heard presentations on current school- and community-based programs that provide transition services to special education students. Federal law requires that the individualized education program for students with disabilities include a transition plan after the students turn 16 years old. The services described in the transition plan help the students move from secondary education to the postsecondary world. This discussion was part of the commission's exploration of extending state funding for students with disabilities beyond age 18.

The commission requested bill drafts and fiscal impact information for three proposals related to special education:

- The cooperative funding task force proposal.
- A proposal extending state funding to older students with disabilities.
- A proposal applying the inflationary factor that currently applies to other district general fund components to the state special education payment.

These drafts will be reviewed by the commission in May.

The day concluded with presentations on gifted and talented programs, and the commission requested information on possible mechanisms to increase funding for these programs.

Next Meeting

The commission will meet at 8:30 a.m. on May 4 and again on May 6 in Room 102 of the Capitol in Helena. To allow commissioners time to work independently on issues the commission is considering, please note that the commission will not convene on Thursday, May 5. For more information on the commission's activities and upcoming meeting, please visit the commission's website or contact Pad McCracken, commission staff.

Commission Website: www.leg.mt.gov/sfc

Commission Staff: padmccracken@mt.gov or 406-444-3595

State Administration Committee Requests Bill to Require Online Privacy Policies

At its April meeting, the State Administration and Veterans' Affairs Interim Committee voted to draft a bill that would require commercial websites to post online privacy policies.

Other committee activities in April included further action on a committee bill to clean up election laws as well as informational briefings about veterans' courts, veteran suicide rates, and a federal law compromising the readiness of the Montana National Guard to respond to state emergencies.

HJR 21: Study of Personal Information Ownership

As part of its assigned study on personal information ownership under House Joint Resolution 21 (2015), the committee received several staff research reports and presentations covering the following topics:

- Online tracking of consumers.
- Self-regulation standards for online behavioral advertising companies.
- Online privacy policies and notifications to consumers about the collection of personal information.
- Requiring opt-in choices for consumers concerning online tracking.
- Federal and state laws on financial information.
- HIPAA and state health information laws.
- Governmental websites and privacy policies.

The committee also heard from interested stakeholders in each of these areas.

Following questions and discussion, the committee approved a motion to develop a committee bill to require commercial websites that collect personal information on Montana consumers to post online privacy policies. The policies would have to inform website users about what information is collected about the website visitor and what control the visitor may exercise with respect to what information is collected and how it is used.

The committee's bill is to be modeled after selected provisions of the EU-U.S. Privacy Shield, the California online privacy law, and a Utah law requiring consumer notification about an entity's intent to sell nonpublic personal information.

The committee will examine the initial bill draft and further discuss the proposed bill with stakeholders at its next meeting in June.

In other actions concerning the HJR 21 study, the committee voted not to further examine insurance and financial information laws, HIPAA and health information laws, or the current law requiring Montana government entities to post privacy policies on their websites.

However, the committee did vote to request that state and local government entities be educated about the state's current law requiring government websites to post privacy policies. The State Information Technology Division committed to

examine state agency compliance with the law and to report back to the committee in June. Also, a representative for the Montana Association of Counties committed to reach out to local government entities to provide education about the state law and to remind them that the law requiring governmental entities to post online privacy policies also applies to all political subdivisions of the state.

Election Law Cleanup

The committee reviewed an initial committee bill draft (LC0030) to clean up election laws affected by the passage of House Bill 84 (2015). HB 84 generally revised certain administrative deadlines for elections, required that school elections conducted by school clerks allow late voter registration, and required that special purpose district elections be held on the same day as school trustee elections in May rather than during primary or general elections. After public comment, discussion, and various actions, the committee decided on a revised bill draft that would do the following:

- Clarify that an election for study commission members is held only if the study was approved by the electorate.
- Clarify that if an election on a local government ordinance is requested by petition, the election must be held in conjunction with the next scheduled local government election.
- Clarify in a special transition instruction section that will not be codified that terms of office for special purpose district officers whose terms would have expired before the next election that was moved to May will not expire until a successor is elected or appointed after the May election.
- Require that a copy of a resolution calling a school election be sent to the superintendent of public instruction within 3 days after the resolution's adoption.
- Require that a copy of a notice of an election by acclamation of a school trustee be sent to the superintendent of public instruction within 3 days after the declaration of election by acclamation.
- Require that the county election administrator be responsible for providing the required notice of the close of regular voter registration for a school election.
- Provide that the deadline for canceling a conservation district election that is held in conjunction with a federal primary or federal general election is the regular candidate filing deadline and not the filing deadline for a write-in candidate.
- Clarify that ballots for absentee voting in person must still be available 30 days before the election.

Veterans' Affairs

The committee received information about veterans' services, including special veterans' courts and suicide prevention. The committee learned that the veteran suicide rate in Montana is much higher than the national average. Montana averages 54 veteran suicides per 100,000 veterans annually, while the national average is 22 veteran suicides per 100,000 veterans. The committee requested a briefing from the Department of Veterans Affairs' regional suicide prevention coordinator at its next meeting in June.

Department of Military Affairs

Committee members received an informational briefing about the Fiscal Year 2016 National Defense Authorization Act, which requires that 20 percent of state military technician positions be converted from state control to federal control. For Montana, this means that about 100 positions would be converted to federal positions filled by federal civilian employees. Montana Adjutant General Matthew Quinn informed the committee that this would severely impact the readiness of the Montana National Guard to respond to state emergencies. He and Gov. Steve Bullock have joined other states in calling for the repeal of this law.

Following the briefing, the committee voted to draft a letter that would be sent to the appropriate congressional leaders and other national authorities to also call for the repeal of this provision of the FY 2016 National Defense Authorization Act.

Next Meeting

The committee will meet on June 21 in Room 102 of the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, please visit the committee's website or contact Sheri Scurr, committee staff.

Committee Website: www.leg.mt.gov/sava

Committee Staff: sscurr@mt.gov or 406-444-3596

State-Tribal Committee Urges DPHHS to Reconsider Its Use of Suicide Prevention Funding

The State-Tribal Relations Committee [sent a letter](#) to the director of the Department of Public Health and Human Services, Richard Opper, urging him to reconsider the department's planned use of money appropriated by the 2015 Legislature for Indian youth suicide prevention grants. The committee is the Legislature's liaison with tribal governments.

The committee learned at its March 23 meeting in Box Elder that DPHHS plans to use up to \$100,000 of the \$250,000 appropriation to hire a contractor to form a coalition of tribal and urban Indian representatives to develop a strategic suicide prevention plan. The committee voted unanimously to send a letter of opposition to Opper. The committee believes the money would be better spent by providing direct grants to support suicide prevention programs at the local level. The committee also asked DPHHS to collect data on and measure the success of programs that receive grants in order to report the progress of these programs to the 2017 Legislature.

Other Issues

While in Box Elder, the committee met with members of the Chippewa Cree Business Committee of the Rocky Boy's Reservation. Members of the CCBC said they are especially interested in expanded gaming on the reservation, mutual jurisdiction with local governments regarding the surrender of stolen property by pawnbrokers, legislative support for state appropriations and programs that benefit Indian country, and education for new state legislators about state-tribal relations and the basics of tribal government.

The committee also traveled to Poplar to meet with the Fort Peck Tribal Executive Board on March 22. Board members discussed their tribes' readiness to receive additional bison from the Yellowstone area. They also asked about the future of funding for state Indian language preservation and immersion programs. One member expressed concern that the state does not fully comply with the federal Indian Child Welfare Act (ICWA), which requires the state to take extra measures when an Indian child may be placed in foster or adoptive care.

The ICWA was discussed in detail by a panel of presenters in Poplar, including Assistant Attorney General Melissa Schlichting, who provided an overview of the act's requirements. Other panel members included the Honorable Katherine Bidegaray, 7th Judicial District; Georgette Hogan Boggio, ICWA attorney for Fort Peck; Michelle Ereaux, the state's new ICWA program manager; and Roy Pack, strategic programs director for the Rocky Mountain Tribal Leaders Council.

Next Meeting

The committee will meet on July 13-14 at the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, please visit the committee's website or contact Hope Stockwell, committee staff.

Committee Website: www.leg.mt.gov/tribal

Committee Staff: hstockwell@mt.gov or 406-444-9280

Task Force on State Public Defender Operations Considering Options

The Task Force on State Public Defender Operations will continue in May its examination of the operations of the Office of the State Public Defender as directed under House Bill 627 (2015). Some of the topics that will be addressed during the meeting are the following:

- Interstate comparisons of federal public defenders' pay and benefits.
- Information about national guidelines for the appointment of a public defender for parents in dependent abuse or neglect cases.
- Options for restructuring the management and administration of the Office of the State Public Defender.
- Continued review of the collection of court-levied fees on indigent defendants for public defender services.
- Options for determining defendants' eligibility for public defender services.
- Review and discussion of the Public Defender Commission's pending strategic plan.

Staff from the OPD will present ideas for adding or more effectively including social workers in OPD operations, reallocating employees for eligibility determination, implementing or expanding mentorships within the OPD, and expanding the pool of contract attorneys across the state.

The task force will also review suggestions from stakeholders involved with the OPD about how to improve OPD operations.

Each of the items to be discussed by the task force bears not only on the operations of the Office of the State Public Defender but also on prosecutors, the judiciary, indigent defendants and potentially indigent defendants, and state taxpayers. The task force members may also narrow the scope of the members' interest areas in anticipation of making recommendations and formulating draft legislation.

Next Meeting

The task force will meet on May 16 in Room 137 of the Capitol in Helena at a time to be determined. For more information on the task force's activities and upcoming meeting, please visit the task force's website or contact Dave Bohyer, task force staff.

Task Force Website: www.leg.mt.gov/tfspdo

Task Force Staff: dbohyer@mt.gov or 406-444-3592

Water Committee to Meet in Bozeman

The Water Policy Interim Committee will focus on Gallatin Valley water issues at its meeting in Bozeman on May 2-3.

The eight-member, bipartisan committee will travel to three sites near the Four Corners area. The sites include the following:

- Infiltration gallery of the Four Corners Water and Sewer District.
- Domestic water and irrigation systems for the Middle Creek Parklands subdivision.
- Water delivery portion of the Farmers Canal irrigation system.

The committee will also hear from various interests regarding Gallatin Valley water issues, including water supply options, the future of the Bozeman Water Court, and vegetative management in the Bozeman watershed.

The committee will also hear research from Montana State University assistant professor Ellen Lauchnor regarding the presence of chemicals from industrial and household products and their effects on wastewater treatment processes.

Next Meeting

The committee will meet at 9 a.m. on May 2 at the Bozeman City Commission chambers. The meeting will reconvene at 9 a.m. on May 3. For more information on the committee's agenda and other activities, please visit the committee's website or contact Jason Mohr, committee staff.

Committee Website: www.leg.mt.gov/water

Committee Staff: jasonmohr@mt.gov or 406-444-1640

The Back Page

A Closer Look at the 4 Percent Retirement Solution

by Dave Bohyer, Research Director
 Montana Legislative Services Division

For anyone thinking about his or her future in retirement, one question that looms large is, "How much income am I likely to need after I retire?" For many, the glib answer is probably, "More than you have!" This edition of "The Back Page" considers some prominent questions that many baby boomers have asked or will soon be asking and attempts to provide some plausible answers. The answers may presage discussions about public policies affecting not only those at or near retirement but all Montanans who will have a need for retirement income in the future.

The best time to plant a tree was 20 years ago.
 – Chinese proverb

What's Your Number?

A few years ago, a company called ING had an advertising campaign that simply asked: "What's YOUR number?"¹ The number they were referring to was the target value of your nest egg at retirement. However, the number question was implicitly a somewhat longer and different question: "What's YOUR number if you want to have X dollars of income in retirement?" Will you need \$1,000 a month to maintain or, perhaps, improve your lifestyle? Or maybe you'll need \$1,500? Or \$5,000? Regardless of your own answer to the question, there is a fairly simple formula used by financial advisers to calculate what the value of your nest egg should be to generate the amount of income you think you'll need in retirement. That formula is typically called the 4 percent rule.²

The 4 Percent Rule

The 4 percent rule says that, statistically speaking, your nest egg should last for about 30 years if you withdraw 4 percent the first year in retirement and 4 percent plus inflation in each succeeding year. The rule is overly simplistic, of course, but it is a reasonable starting point. Among some of the complexities are the projected rate of return on the assets remaining in the nest egg, the presumed rate of inflation, and an assumption that your nest egg will avoid catastrophes for the duration of retirement — that is, no once-in-a-century negative fluctuations in the financial markets or the value of your nest egg.

How Much Will You Need?

Using the 4 percent rule, by formula you'll need \$25,000 in your nest egg for each \$1,000 of pretax annual income you will need during retirement. Will you need an annual retirement income of \$12,000? Then you'll need a \$300,000 ($12 \times \$25,000$) nest egg. Will you need \$18,000 a year? Then you'll need a \$450,000 nest egg. Or will you need closer to \$36,000 a year? If so, a nest egg of \$900,000 should do it. Your nest egg number can look like a lot of money right now, but that doesn't necessarily mean you need to panic just yet.

An Average Example

The following discussion designates the average state employee in 2014 as a proxy for examples of how an individual might fare as retirement nears and that individual's need to know and understand future personal finances becomes critical.

State employees — including legislators and other elected officials — and many local government employees have the option to build their own nest egg in a defined contribution (DC) retirement plan rather than participate in the default defined benefit (DB) retirement plan. The Montana Public Employees' Retirement System (PERS) DC plan is similar to a private-sector 401(k) plan or an individual retirement account (IRA). The DC plan allows an employee to build wealth during the working years from which income can be derived in retirement. The PERS DB plan also allows an employee to build wealth during the working years, but that wealth is typically converted into an income stream — commonly called a pension — based on a defined formula applied at retirement. With a DC plan, the value of an employee's DC plan assets can potentially grow quickly during boom times in the economy, especially in the financial markets. However, a DC plan participant can be at a disadvantage when financial markets perform poorly, especially during unusually drastic financial downturns — think 2001-2003 and 2008-2009.

So how might an average state employee fare by opting for the DC plan rather than the DB plan? There is no sure

¹ ING is an abbreviation for Internationale Nederlanden Groep, a banking and insurance conglomerate based in Amsterdam, The Netherlands.

² A California financial planner named Bill Bengen is often cited as the godfather of the 4 percent rule.

guarantee, but we can make a reasoned projection by looking at statistics about state employees, by applying the 4 percent rule, and by adopting some reasonable assumptions.

The 2015 State of Montana Employee Profile shows that the average executive branch employee in 2014 was about 46 years old, had worked for state government for 12 years, and was earning an annual salary of \$48,084.³ For convenience, we'll call our average executive branch state employee "Jo Average." At 46 years of age and with 12 years of state employment, Jo will attain statutorily defined normal retirement age after 30 years of service and retire in 2032 at 64 years of age.

Applying Some Economic Assumptions

Certain economic assumptions are needed to estimate the future amount of Jo's DC retirement plan nest egg. These include assumptions about any general pay increases or any special pay increases — such as for longevity, cost-of-living, or merit — that Jo may receive over the next 18 years before her retirement. For future cost-of-living pay increases, we'll assume these will be the same going forward as they were between 2003 and 2016: about 2 percent annually. For merit-based pay increases, we'll use the assumption adopted by the actuaries for the Montana PERS, which ranges from zero percent to 6 percent.⁴ We'll assume that Jo earned the highest percentage merit increases in her early years and that these increases will become smaller and smaller as her career winds down. We'll also use the statutory employee and employer contribution rates for PERS, which are currently 7.9 percent and 8.17 percent respectively, for a combined contribution rate of 16.17 percent of Jo's gross pay to her PERS DC retirement account.⁵

To complete our analysis, we'll also need to know Jo's salary in her previous and future years of service. We know Jo's salary in 2014 (\$48,048) as well as the amount of the cost-of-living increases she received in years past and we have adopted the anticipated merit-based pay increases determined by the PERS actuaries, so we can estimate what her annual salary was in each previous year beginning in 2013 and going backward to 2003, the year Jo started her state employment. To calculate her future salaries, we have adopted the historical cost-of-living increases authorized by the Legislature and actuarially estimated merit increases for future years, so we can estimate her annual salary through her 30th and final year of employment in 2032 (see tables 1 and 2).

Table 1: Jo Average's Estimated Base Pay for 2003-2032

Age	Yrs of Service	Year	Est. Base Pay	Merit	Cost-of-Living Increases
35	1	2003	\$23,663	6.0%	4.00%
36	2	2004	\$26,030	5.0%	0.00%
37	3	2005	\$27,851	5.0%	\$0.25
38	4	2006	\$30,310	5.0%	3.50%
39	5	2007	\$32,886	5.0%	4.00%
40	6	2008	\$35,846	4.0%	3.60%
41	7	2009	\$38,570	4.0%	3.60%
42	8	2010	\$41,501	4.0%	0.00%
43	9	2011	\$43,162	4.0%	0.00%
44	10	2012	\$44,888	4.0%	0.00%
45	11	2013	\$46,683	3.0%	0.00%
46	12	2014	\$48,084	3.0%	3.50%
47	13	2015	\$51,209	3.0%	0.00%
48	14	2016	\$52,746	3.0%	\$0.50
49	15	2017	\$55,368	3.0%	\$0.50
50	16	2018	\$58,069	2.0%	2.00%
51	17	2019	\$60,394	2.0%	2.00%
52	18	2020	\$62,811	2.0%	2.00%
53	19	2021	\$65,325	2.0%	2.00%
54	20	2022	\$67,940	2.0%	2.00%
55	21	2023	\$70,660	1.0%	2.00%
56	22	2024	\$72,782	1.0%	2.00%
57	23	2025	\$74,967	1.0%	2.00%
58	24	2026	\$77,218	1.0%	2.00%
59	25	2027	\$79,537	1.0%	2.00%
60	26	2028	\$81,926	1.0%	2.00%
61	27	2029	\$84,386	1.0%	2.00%
62	28	2030	\$86,920	1.0%	2.00%
63	29	2031	\$89,530	1.0%	2.00%
64	30	2032	\$92,218	1.0%	2.00%
Mean Averages			\$57,449	2.70%	1.94%

³ State Human Resources Division, *State of Montana Employee Profile 2015*, Montana Department of Administration, p. 1.

⁴ Montana Public Employee Retirement Administration, *Comprehensive Annual Financial Report*, June 30, 2015, p. 55.

⁵ See sections 19-3-315 and 19-3-316, Montana Code Annotated. Note that the employer contribution is scheduled to increase by 0.1 percent annually through June 2024, to reach a maximum of 9.17 percent of compensation. For the purposes of this article, the employer contribution was assumed to be 8.17 percent.

Table 2: Jo Average's Estimated Gross Pay 2003-2032

Age	Yrs of Service	Year	Est. Base Pay	Longevity Increase	Gross Pay
35	1	2003	\$23,663	0.0%	\$23,663
36	2	2004	\$26,030	0.0%	\$26,030
37	3	2005	\$27,851	0.0%	\$27,851
38	4	2006	\$30,310	0.0%	\$30,310
39	5	2007	\$32,886	0.0%	\$32,886
40	6	2008	\$35,846	1.5%	\$36,384
41	7	2009	\$38,570	1.5%	\$39,149
42	8	2010	\$41,501	1.5%	\$42,124
43	9	2011	\$43,162	1.5%	\$43,809
44	10	2012	\$44,888	1.5%	\$45,561
45	11	2013	\$46,683	3.5%	\$48,317
46	12	2014	\$48,084	3.5%	\$49,767
47	13	2015	\$51,209	3.5%	\$53,002
48	14	2016	\$52,746	3.5%	\$54,592
49	15	2017	\$55,368	3.5%	\$57,306
50	16	2018	\$58,069	5.5%	\$61,263
51	17	2019	\$60,394	5.5%	\$63,715
52	18	2020	\$62,811	5.5%	\$66,266
53	19	2021	\$65,325	5.5%	\$68,918
54	20	2022	\$67,940	5.5%	\$71,677
55	21	2023	\$70,660	7.5%	\$75,959
56	22	2024	\$72,782	7.5%	\$78,240
57	23	2025	\$74,967	7.5%	\$80,590
58	24	2026	\$77,218	7.5%	\$83,010
59	25	2027	\$79,537	7.5%	\$85,502
60	26	2028	\$81,926	9.0%	\$89,299
61	27	2029	\$84,386	9.0%	\$91,980
62	28	2030	\$86,920	9.0%	\$94,742
63	29	2031	\$89,530	9.0%	\$97,587
64	30	2032	\$92,218	9.0%	\$100,518

Investment Return and Inflation Assumptions

Two critical financial assumptions that we have yet to adopt are the rate of return Jo should expect to earn on the investment of her nest egg and the impact of inflation on her nest egg in coming years. With respect to investments, a real, live "Jo" might have a very high risk tolerance and lean toward investing in high-risk, potentially high-return ventures (e.g., stocks, commodities, real estate), or she may be very risk averse and willing to put her hard-earned money into only low-risk, low-return instruments (e.g., cash, money markets, U.S. Treasury securities). For our purposes, let's assume that Jo will limit her risk of losing value in her nest egg but that she will still earn an average annual return of 5 percent.

Based on what we know about Jo's salary in 2014 and the statutory employer and employee contributions to her

retirement plan nest egg and based on the assumptions we have made about her past and future pay increases and about her rate of return on the assets she accumulates in her nest egg, we can also anticipate that when she hits 30 years of service at 64 years of age and turns off her office light for the last time, she will have accumulated approximately \$565,000 in her DC retirement plan nest egg (see table 3).

Table 3: Jo Average's Estimated DC Plan Accruals

Age	Yrs of Service	Year	Gross Pay	Beginning DC Plan Balance	Contribution to DC Plan	Interest Earned (5%)	Ending Balance
35	1	2003	\$23,663	\$-	\$3,826	\$96	\$3,922
36	2	2004	\$26,030	\$3,922	\$4,209	\$301	\$8,432
37	3	2005	\$27,851	\$8,432	\$4,504	\$534	\$13,470
38	4	2006	\$30,310	\$13,470	\$4,901	\$796	\$19,167
39	5	2007	\$32,886	\$19,167	\$5,318	\$1,091	\$25,576
40	6	2008	\$36,384	\$25,576	\$5,883	\$1,426	\$32,885
41	7	2009	\$39,149	\$32,885	\$6,330	\$1,803	\$41,018
42	8	2010	\$42,124	\$41,018	\$6,811	\$2,221	\$50,051
43	9	2011	\$43,809	\$50,051	\$7,084	\$2,680	\$59,814
44	10	2012	\$45,561	\$59,814	\$7,367	\$3,175	\$70,357
45	11	2013	\$48,317	\$70,357	\$7,813	\$3,713	\$81,883
46	12	2014	\$49,767	\$81,883	\$8,047	\$4,295	\$94,225
47	13	2015	\$53,002	\$94,225	\$8,570	\$4,926	\$107,721
48	14	2016	\$54,592	\$107,721	\$8,828	\$5,607	\$122,155
49	15	2017	\$57,306	\$122,155	\$9,266	\$6,339	\$137,761
50	16	2018	\$61,263	\$137,761	\$9,906	\$7,136	\$154,803
51	17	2019	\$63,715	\$154,803	\$10,303	\$7,998	\$173,104
52	18	2020	\$66,266	\$173,104	\$10,715	\$8,923	\$192,742
53	19	2021	\$68,918	\$192,742	\$11,144	\$9,916	\$213,802
54	20	2022	\$71,677	\$213,802	\$11,590	\$10,980	\$236,372
55	21	2023	\$75,959	\$236,372	\$12,283	\$12,126	\$260,780
56	22	2024	\$78,240	\$260,780	\$12,651	\$13,355	\$286,787
57	23	2025	\$80,590	\$286,787	\$13,031	\$14,665	\$314,483
58	24	2026	\$83,010	\$314,483	\$13,423	\$16,060	\$343,965
59	25	2027	\$85,502	\$343,965	\$13,826	\$17,544	\$375,335
60	26	2028	\$89,299	\$375,335	\$14,440	\$19,128	\$408,902
61	27	2029	\$91,980	\$408,902	\$14,873	\$20,817	\$444,593
62	28	2030	\$94,742	\$444,593	\$15,320	\$22,613	\$482,525
63	29	2031	\$97,587	\$482,525	\$15,780	\$24,521	\$522,826
				Totals	\$294,297	\$271,330	\$565,627
				Averages	\$9,810	\$9,044	\$194,836

How Much Is Enough?

If Jo relies on the 4 percent rule to transform her \$565,000 nest egg into retirement income, she should be able to withdraw 4 percent of the principal, plus inflation, for nearly 30 years. That would translate into a first-year withdrawal from the nest egg of \$22,600, or \$1,880 per month (see table 4).

Table 4: Jo Average's Estimated DC Plan Withdrawals						
Yrs Retired	Age	Year	4%			
			Beginning 401(k) Balance	Withdrawal Plus 2% Inflation	Interest Earned (5%)	Ending 401(k) Balance
0	65	2033	\$565,000	\$22,600	\$27,685	\$570,085
1	66	2034	\$570,085	\$23,504	\$27,917	\$574,498
2	67	2035	\$574,498	\$24,444	\$28,114	\$578,167
3	68	2036	\$578,167	\$25,422	\$28,273	\$581,018
4	69	2037	\$581,018	\$26,439	\$28,390	\$582,969
5	70	2038	\$582,969	\$27,496	\$28,461	\$583,934
6	71	2039	\$583,934	\$28,596	\$28,482	\$583,820
7	72	2040	\$583,820	\$29,740	\$28,447	\$582,527
8	73	2041	\$582,527	\$30,930	\$28,353	\$579,950
9	74	2042	\$579,950	\$32,167	\$28,193	\$575,977
10	75	2043	\$575,977	\$33,454	\$27,963	\$570,486
11	76	2044	\$570,486	\$34,792	\$27,655	\$563,349
12	77	2045	\$563,349	\$36,183	\$27,263	\$554,428
13	78	2046	\$554,428	\$37,631	\$26,781	\$543,578
14	79	2047	\$543,578	\$39,136	\$26,201	\$530,643
15	80	2048	\$530,643	\$40,701	\$25,515	\$515,456
16	81	2049	\$515,456	\$42,329	\$24,715	\$497,841
17	82	2050	\$497,841	\$44,023	\$23,792	\$477,610
18	83	2051	\$477,610	\$45,783	\$22,736	\$454,563
19	84	2052	\$454,563	\$47,615	\$21,538	\$428,486
20	85	2053	\$428,486	\$49,519	\$20,186	\$399,153
21	86	2054	\$399,153	\$51,500	\$18,670	\$366,323
22	87	2055	\$366,323	\$53,560	\$16,977	\$329,740
23	88	2056	\$329,740	\$55,703	\$15,094	\$289,132
24	89	2057	\$289,132	\$57,931	\$13,008	\$244,209
25	90	2058	\$244,209	\$60,248	\$10,704	\$194,666
26	91	2059	\$194,666	\$62,658	\$8,167	\$140,175
27	92	2060	\$140,175	\$65,164	\$5,380	\$80,390
28	93	2061	\$80,390	\$67,771	\$2,325	\$14,945
29	94	2062	\$14,945	\$70,482	\$(1,015)	\$(56,552)
30	95	2063	\$56,552	\$73,301	\$(4,660)	\$(134,513)

Financial advisers are not uniformly settled on how much income an individual will need in retirement to preserve the individual's preretirement lifestyle, but many advisers say that 80 percent of preretirement income is a good target. For Jo, we can estimate from our known data and our assumed variables that she will finish her 30th year in state service in

2032 earning \$92,218 in base salary and another \$8,300 in longevity pay for a total of \$100,518. (This is \$73,222 in inflation-adjusted dollars if inflation averages 2 percent annually.) Using the 80 percent figure, Jo should shoot for about \$80,000 of income in her first year of retirement.

The \$22,600 annual income from Jo's nest egg will make a nice contribution to the goal of \$80,000 annually. Fortunately, Jo will be eligible for her full Social Security benefits three years later, when she is 67 years of age. Those benefits could amount to \$1,795 per month, or \$21,535 annually, in 2035. This figure is derived from the \$1,184 average monthly Social Security benefit in Montana in 2014 increased by the same 2 percent inflation assumption until 2035, when Jo celebrates her 67th birthday (see table 5).

Table 5: Jo Average's Estimated Inflation-Adjusted Salary and Social Security Benefits						
Year	Yrs to Ret.	Inflation Adjusted Gross Pay	Year	Estimated SS Benefits	Year	Inflation Adjusted SS & DC Balance
2032	0	\$100,518	2014	\$1,184	2035	\$44,135
2031	1	\$98,547	2015	\$1,208	2034	\$43,270
2030	2	\$96,615	2016	\$1,232	2033	\$42,421
2029	3	\$94,720	2017	\$1,256	2032	\$41,589
2028	4	\$92,863	2018	\$1,282	2031	\$40,774
2027	5	\$91,042	2019	\$1,307	2030	\$39,974
2026	6	\$89,257	2020	\$1,333	2029	\$39,191
2025	7	\$87,507	2021	\$1,360	2028	\$38,422
2024	8	\$85,791	2022	\$1,387	2027	\$37,669
2023	9	\$84,109	2023	\$1,415	2026	\$36,930
2022	10	\$82,460	2024	\$1,443	2025	\$36,206
2021	11	\$80,843	2025	\$1,472	2024	\$35,496
2020	12	\$79,258	2026	\$1,502	2023	\$34,800
2019	13	\$77,704	2027	\$1,532	2022	\$34,118
2018	14	\$76,180	2028	\$1,562	2021	\$33,449
2017	15	\$74,686	2029	\$1,594	2020	\$32,793
2016	16	\$73,222	2030	\$1,625	2019	\$32,150
2015	17	\$71,786	2031	\$1,658	2018	\$31,520
2014	18	\$70,379	2032	\$1,691	2017	\$30,902
			2033	\$1,725	2016	\$30,296
			2034	\$1,759	2015	\$29,702
			2035	\$1,795	2014	\$29,119

With Jo's \$21,535 annual Social Security income added to her \$22,600 annual income from her retirement plan nest egg, she'll have covered more than 55 percent of her \$80,000

income goal. For the remaining 45 percent of her goal, Jo will need to look to other sources, such as private savings or private investments, perhaps an IRA, or conversion of the equity in her home or a vacation property into income approaching \$35,800 a year.⁶

As an average state employee, Jo is more than twice as likely to have a four-year college degree as not, so she may be quite savvy as a saver and investor outside of her DC retirement plan. Let's hope so because finding an additional \$35,000 in income each year means she'll need another nest egg, this one weighing in at \$875,000 and returning at least 5 percent each year. If she doesn't have the second nest egg and chooses to truly be retired, she'll have to do without a considerable portion of her preretirement income.

Although Jo's predictable retirement income of \$44,000 may look pretty sweet in 2016, we need to remember that her retirement income will be collected in inflated 2035 dollars. Applying the 2 percent annual inflation assumption again for consistency, Jo's \$44,000 in 2035 will be the equivalent of \$30,300 today, or \$2,500 per month.

Notably, Jo may be in a better position with respect to retirement income than many or even most Montanans. A 2015 analysis by the U.S. Government Accountability Office found that average Americans between the ages of 55 and 64 have accrued about \$104,000 in retirement savings.⁷ Because Montanans' average incomes are below those of most other states, it follows that Montanans who are approaching retirement may also have less than \$104,000 in retirement savings.

An Aging Population

Almost 160,000 Montanans were 65 years old or older in 2012. That's nearly 16 percent of Montana's population, or one in seven Montanans.⁸ With the percentage of Montanans age 65 or older likely to continue at this level, or even to increase as the baby boomers continue to age, income in retirement will continue to be a concern for most families and, increasingly, for policymakers as well.

Aging Montanans and the challenges they'll face in coming years are an ongoing public policy concern if for no other

reason than the health care and long-term care needs many of them will have. Much of the cost for those needs will be paid for through Medicare, private insurance, or out-of-pocket payments, but a sizable portion of the costs will also be borne by Medicaid, by nursing homes owned or operated by cities or counties, and by hospitals and long-term care facilities.

The Role of State Policymakers

To the extent that individual Montanans are able to plan and save for their own retirement, they will be able to maintain a lifestyle they are comfortable with, including continuing to bear the costs they incur for everything from housing to transportation to health care and long-term care. Public policymakers will need to remain aware of the financial challenges facing retired and about-to-be-retired Montanans to help them plan for and meet their retirement goals. To some extent, state policymakers have already addressed the retirement income needs of public employees, as evidenced by our examples for "Jo Average." However, for Montanans not in public employment, policymakers and financial institutions may want to look for additional ways of ensuring that all Montanans have easy access to financial vehicles that will help them build the assets they will eventually have to rely on for income in retirement.

⁶ Even though Jo earned \$48,084 in 2014, her ability to save more than her contributions to her DC plan could be challenging. For starters, Jo would likely pay approximately \$13,500 (28 percent) of her gross income in federal and state income taxes, property taxes, and gasoline tax, reducing her pay to \$34,580. Because she also contributes 7.9 percent of her gross pay to her DC plan, that's another \$3,800 subtracted from her salary, leaving her with \$30,780. She can control how much of that amount she pays for housing, food, transportation, insurance, health care, and other day-to-day expenses, but taking account of those costs will definitely limit her ability to save additional amounts for her retirement.

⁷ Retirement Security: Most Households Approaching Retirement Have Low Savings, GAO-15-419, May 12, 2015, p. 11.

⁸ AARP, "Social Security 2014 Montana Quick Facts," available from <http://www.aarp.org/research/topics/economics/info-2014/2014-social-security-quick-fact-sheets.html>.